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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,071	09/22/2003	Che-Wen Lin		6105

7590 08/23/2005  
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EXAMINER

HOEY, ALISSA L

ART UNIT PAPER NUMBER

3765

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/665,071

Applicant(s)

LIN, CHE-WEN

Examiner

Alissa L. Hoey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 2-4, 7 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 5 and 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of claims 1, 5 and 6 in the reply filed on 06/06/05 is acknowledged.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Objections***

3. Claims 1, 5 and 6 are objected to because of the following informalities: the claims appear to be translated from a foreign application. Please make sure the claims read in proper English format and that they are apparatus claims without methods or steps found within. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes (US 1,783,505) in view of Heller et al. (US 5,405,383).

In regard to claim 1, Hayes teaches a rain shoe (B) connected with a rain outfit (A) mainly comprising a pair of extension portions disposed at the lower aspects of a

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rain cape opposite to the user's legs. A pair of connection portions (B') extending from bottom portions of the rain cape (G). A pair of gaiters (B) joining the lower aspects of the connection portions and at least one receiving device (C, C', D, D') disposed at the lower aspect of the rain cape (figure 1). The outer layer waterproof fabric extends to the length long enough for covering the bottom portion of the gaiter (page 1, lines 1-11). The connecting part (B') has folds to provide the allowance for the connection portion to displace upwardly so as to achieve the expanding objective (figures 1 and 5). When the user's legs need no covering the extensions portions, the connection portions and the gaiter are rolled upwardly and fixed at the lower aspect of the rain cape through the receiving device so as to achieve the object of applying conveniently (figure 1).

However, Hayes fails to teach the connection portion further comprising a circular inner layer soft line and a circular outer layer waterproof fabric. The inner soft liner is located between the inner periphery of the outer layer waterproof fabric and the user's leg. The length of the inner soft liner fits with that of the outer layer waterproof fabric. The top end thereof and the outer waterproof fabric are sewn fixedly and the bottom end thereof connects fixedly with the upper rim of the gaiter.

Heller teaches a leg gaiter (figure 15) having an inner layer of a soft liner and an outer layer of waterproof fabric (column 3, lines 28-38 and column 5, lines 29-44). The inner soft liner is located between the inner periphery of the outer layer waterproof fabric and the user's leg (figure 15, identifiers 44, 46, 48 and 68 see stitching). The length of the inner soft liner fits with that of the outer layer waterproof fabric (figure 15). The top

end thereof and the outer waterproof fabric are sewn fixedly and the bottom end thereof connects fixedly with the upper rim of the gaiter (figure 15).

In regard to claim 5, Hayes teaches the gaiters are made into shape for covering the user's feet with open bottom portions to prevent the rainwater from soaking the user's feet (figures 3-5).

In regard to claim 6, Hayes teaches the ankle portion of the gaiter being disposed with tie bands to tighten the gaiter worn on user's foot to prevent downward sliding (figures 3-5, identifier L).

It would have been obvious to have provided the rain cape and gaiter of Hayes with the liner soft layer of Heller et al., since the gaiter of Hayes provided with a liner of soft material would provide gaiter portions that would be not only waterproof from the elements on the outside, but comfortable against the users skin providing additional insulation.

### ***Conclusion***

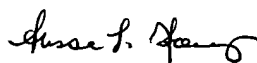
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gassaway, Kurz et al., Foisy, Cohen, Downes, Mueller, McGinnis, Knowling, McGrath, Justad, Fisch, Roark, Morrison, Adams, Read, Bull, Dzielak, Davey and Bush et al. are all cited to show closely related garment articles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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